#### WEST VIRGINIA INFORMATIONAL LETTER

#### NO. 70

## MAY, 1990

TO: All Insurance Companies Licensed To Do Business In The State of West Virginia, Insurance Trade Associations, Insurance Media Publications and All Other Interested Persons

The purpose of this Informational Letter is to briefly summarize significant insurance legislation enacted during the 1990 regular session of the West Virginia Legislature. This letter is not to be construed as inclusive of all legislation which may affect the insurance industry or insurance consumers, but rather, is intended to highlight the more important bills.

Persons seeking a copy of particular legislation should contact the West Virginia Legislature, Senate Clerks Office 304/357-7800 or House Clerks Office 304/340-3200, Main Unit, State Capitol, Charleston, West Virginia 25305.

#### **SUMMARY OF 1990 LEGISLATION**

## House Bill 4037 - Payment of Unearned Premiums on Credit Life and Accident and Sickness Insurance

This bill requires an insurer to pay an insured any unearned premiums on his/her credit life or accident and sickness policy upon full payment of a loan for which this type of insurance was purchased. Upon insureds request of cancellation, payment of the unearned premiums must be made within forty-five (45) days of cancellation notice. Failure to comply makes the insurer liable for civil damages up to three (3) times the amount of the unused premium.

This legislation becomes effective June 5, 1990.

## **House Bill 4126 - Notification of Group Health Conversion Privilege**

This bill mandates that the insurer must notify each employee or member and their respective spouses, children or dependents of the conversion privilege prior to termination of their group health policy. This notification must be done, in writing, at least forty-five (45) days prior to termination.

This legislation becomes effective June 8, 1990.

### **House Bill 4130 - Continuing Education Program for Agents**

This bill establishes a continuing education program for agents which becomes effective July 1, 1992. The guidelines for this program will be structured by the Insurance Commissioners Office and the Board of Insurance Agent Education. This program will not require agents to complete more than thirty (30) educational hours biennially. Exempted from this program are: 1) individuals selling credit life or credit accident and sickness insurance and 2) persons holding resident licenses for any kind of insurance connected with loans or credit transactions for which an examination is not required.

This legislation became effective March 10, 1990.

### House Bill 4151 - Coverage for Obstetric Treatment of Medicaid Patients

This bill directs the State Board of Risk and Insurance Management to establish primary and excess professional malpractice insurance coverages for all medical practitioners who provide obstetric treatment to medicaid patients. To qualify, practitioners must elect participation in these plans prior to any alleged negligent act. Primary coverage is not less than one million (\$1,000,000) dollars per occurrence; excess coverage is not less than three million (\$3,000,000) dollars per occurrence.

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## House Bill 4195 - Rehabilitation and Liquidation, Administrative Supervision and Criminal Sanctions

This bill specifies the Commissioners authority when: 1) placing insolvent companies into liquidation; 2) assuming administrative supervision over financially impaired companies; and 3) imposing criminal sanctions against officers of impaired companies who failed to notify this Agency of their financial impairment.

Concerning the rehabilitation and liquidation process, nine grounds upon which a company may be placed into rehabilitation and liquidation are given. The Commissioner can be granted ex parte orders and injunctions when the court finds justifiable cause. The method for distribution of claims from a company's estate is established. Claims are categorized into eight different classes and each class is prioritized in the order of payment.

This bill states the discretionary grounds for placing a company into administrative supervision and those acts in which a company is prohibited from engaging during supervision. During this period, the Commissioner may appoint a special deputy supervisor to oversee the company's transactions. The company is responsible for payment of the supervisor's expenses.

The chief executive officer of a financially impaired company is mandated to notify the Commissioner, in writing, of its impaired condition. Failure to comply may result in a conviction of a misdemeanor with a penalty of not more than fifty thousand (\$50,000) dollars fine or imprisonment in the county jail for not more than one year. Any individual engaging in such acts as concealing, mutilating, altering, or falsifying documents of a financially impaired company may be found guilty of a felony. Penalty is imprisonment in the penitentiary of not more than five years.

This bill applies to all farm mutuals, fraternal benefit societies, stock insurers, mutual insurers, health maintenance organizations, captive companies, risk retention groups, hospital service corporations, medical service corporations, dental service corporations and health service corporations.

## House Bill 4384 - Reduction of Premiums for Ages Fifty-Five or Older

This bill requires that all rates for liability, personal injury and collision coverage of an automobile policy must provide for a reduction in premiums for the principal owner and spouse, age fifty-five or older, upon completion of an automobile accident prevention course. This course must be approved by the Division of Motor Vehicles. The insured is entitled to only one such discount. Consequently, if the insured is currently receiving a discretionary discount greater or equal to the premium reduction required by this bill, he/she is not eligible for any further premium reduction.

This legislation becomes effective June 8, 1990.

#### House Bill 4467 - Third Party Reimbursement for Rehabilitation Services

This bill directs that all individual and group accident and sickness policies must provide third party reimbursement for rehabilitation services. Rehabilitation services is defined as "services designed to remediate or restore a patients condition to optimal physical, medical, psychological, social, emotional, vocational and economic status." Eleven medical conditions are specifically stated for which these services must be provided.

This legislation becomes effective June 6, 1990.

#### House Bill 4493 - Minimum Capital and Surplus Requirements

This bill requires all licensed companies to have paid in capital stock (or surplus if a mutual insurer) at least one million (\$1,000,000) dollars. Moreover, these companies must have and maintain an additional minimum of one million (\$1,000,000) dollars in surplus funds. Those companies licensed prior to the effective date of this bill have until January 1, 1993, to meet these increased requirements.

This bill further imposes a minimum tax on all companies licensed in West Virginia. This tax is due annually on or before the first day of March.

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## House Bill 4501 - Agents, Brokers and Solicitors

This bill eliminates nonresident broker's licenses effective June 1, 1991. Thereafter, these persons are licensed as nonresident property and casualty agents. Any policies written on West Virginia risks by these agents must be reported, placed, countersigned and consummated through a resident agent.

On July 1, 1990, new fees are imposed for the following: letter of certification -- five (\$5.00) dollars, letter of clearance -- ten (\$10.00) dollars and duplicate license -- five (\$5.00) dollars.

The retaliatory fee for all nonresident agent licenses is removed. The fee for nonresident agents is twenty-five (\$25.00) dollars and no bond or other form of financial responsibility is required.

Effective June 1, 1991, no solicitor's license is issued which is not a nonrenewal of an existing license.

When there is a change in an agents mailing address, he/she is required to notify the Commissioner within thirty (30) days of such address change.

This legislation becomes effective June 8, 1990.

#### **House Bill 4515 - Group Life Dependent Coverage**

This bill eliminates prior statutory provision which placed a maximum dollar amount on dependent coverage in group life insurance policies. Such dollar amount is determined either by the employees or members or by the policyholder, employer or union.

This legislation becomes effective June 8, 1990.

## Senate Bill 44 - Limiting Tort Liability for Equestrian Activities

This bill defines areas of responsibilities and acts that operators of equestrian business may be held liable. It further defines those risks persons participating in equestrian activities assume and for which there can be no recovery. Operators of an equestrian business are mandated to carry public liability insurance in limits of no less than one hundred thousand (\$100,000) dollars per person, three hundred thousand (\$300,000) dollars per occurrence and ten thousand (\$10,000) dollars per property damage.

This legislation becomes effective June 8, 1990.

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## Senate Bill 136 - Companies as Agents for Service of Process

This bill authorizes the service of process upon nonresident motorists involved in accidents in West Virginia and who are named defendants in a suit. When the Secretary of States Office cannot effect such service, the nonresident motorists company is appointed agent or attorney-in-fact for purposes of service of process. Within thirty (30) days of receipt of process, the insurer may file a pleading or take any action in behalf of the nonresident defendant.

This legislation becomes effective June 6, 1990.

## **Senate Bill 162 - Property Declination**

Under this bill the declination and termination of property insurance policies are regulated. Insurers are required to disclose, in writing, their reasons for declination and termination. Unless the reason for termination falls under a permissible cancellation, no insurer can fail to nonrenew a policy which has existed for four (4) years or longer. Ten instances in which a cancellation is permissible are noted. This bill further defines seven discriminatory cancellation and termination practices which are prohibitive. The Commissioner is given specific sanctions to invoke against an insurer who violates this article. These sanctions include issuance of a cease and desist order to restrain engaging in such practices and an assessment of a penalty of up to five thousand (\$5,000) dollars for each willful violation.

For more specific information, see the Departments Informational Letter No. 67 (April, 1990).

This legislation became effective March 8, 1990.

## Senate Bill 243 - Legislative Authorization of Regulations

With this bill the Legislature authorizes the following regulations:

1) Excess Line Brokers, Series 20; 2) Examiners Compensation-Qualification and Classification, Series 15; 3) West Virginia Essential Property Insurance Association, Series 21; 4) Medical Malpractice Annual Reporting Requirements, Series 22; 5) Medical Malpractice Loss Experience, and Loss Expense Annual Reporting Requirements, Series 23; 6) Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions, Series 24 and 7) Insurance Adjusters, Series 25.

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# Senate Bill 481 - Hospital Service Corporations, Medical Service Corporations and Dental Service Corporations to Provide Mental Illness Coverage

This bill removes prior statutory exemption under Chapter 33, Article 24, Section 4 of the West Virginia Code regarding mental illness coverage. Hospital service corporations, medical service corporations and dental service corporations are now required to provide coverage for this illness.

This legislation becomes effective June 6, 1990.

## Senate Bill 608 - Underground Storage Tank Act

This bill establishes a capitalization fee to be assessed against all owners or operators of underground tanks. This fee is being used for initial establishment of the underground storage tank insurance fund.